

**IN THE  
COMMONWEALTH OF VIRGINIA  
REAL ESTATE BOARD**

Re: Allison Formal  
Reston, VA 20191

File Number           2005-00494  
License Number       0225072016

**CONSENT ORDER**

Respondent Allison Formal ("Formal") recognizes and acknowledges being subject to and bound by the Regulations of the Real Estate Board ("Board"), as well as by all other applicable Virginia laws.

Formal knowingly and voluntarily waives any proceedings for this matter under the Administrative Process Act, §§ 2.2-4019, 2.2-4020, and 2.2-4021 of the 1950 Code of Virginia, as amended.

**Board's 2003 Regulations provides:**

18 VAC 135-20-155. Grounds for disciplinary action.

The board has the power to fine any licensee, and to suspend or revoke any license issued under the provisions of Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia, and this chapter where the licensee has been found to have violated or cooperated with others in violating any provision of Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia, Chapter 1.3 (§ 6.1-2.19 et seq.) of Title 6.1 of the Code of Virginia or any regulation of the board. Any licensee failing to comply with the provisions of Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia or the regulations of the Real Estate Board in performing any acts covered by §§ 54.1-2100 and 54.1-2101 of the Code of Virginia may be charged with improper dealings, regardless of whether those acts are in the licensee's personal capacity or in his capacity as a real estate licensee.

The Report of Findings, which contains the facts regarding the regulatory and/or statutory issues in this matter, is incorporated with the Consent Order.

By signing this Consent Order, Formal acknowledges an understanding of the charges, but neither admits nor denies the violation(s) of the Counts as outlined in the Report of Findings. Formal consents to the following term(s):

Count 1:	18 VAC 135-20-260.11	\$0
Count 2:	18 VAC 135-20-260.11	\$0
Count 3:	18 VAC 135-20-260.11	\$0
Count 4:	18 VAC 135-20-260.10	\$0
Count 5:	18 VAC 135-20-280.2	\$0
Count 6:	18 VAC 135-20-300.9	\$0
TOTAL:MONETARY PENALTIES		\$0

**In addition, for violation of Counts 1 through 6, Formal agrees to the revocation of her license.**

Any monetary penalties, costs, and/or sanctions are to be paid/performed within thirty days of the effective date of this consent order unless otherwise specifically noted above. Formal acknowledges any monetary penalty and/or costs as a debt to the Commonwealth and agrees that in the event of a default, or the return of a check for insufficient funds, Formal will be responsible for a penalty fee of 10% and interest at the underpayment rate prescribed in § 58.1-15 of the 1950 Code of Virginia, as amended, and for all reasonable administrative costs, collection fees, or attorney's fees incurred in the collection of whatever funds are due.

**Formal acknowledges that failure to pay any monetary penalty or costs and/or to comply with all terms of this Order within the specified time period, shall result in the automatic suspension of Formal's license until such time as there is compliance with all terms of this Order. Formal understands the right to have this automatic suspension considered in an informal conference pursuant to the Administrative Process Act §§ 2.2-4019 and 2.2-4021 of the 1950 Code of Virginia, as amended, but knowingly and voluntarily waives any rights to the proceeding and hereby waives any further proceedings under the Administrative Process Act §§ 2.2-4020 and 2.2-4021 of the 1950 Code of Virginia, as amended.**

The effective date of this Order shall be the date of execution by the Board.

SEEN AND AGREED TO:

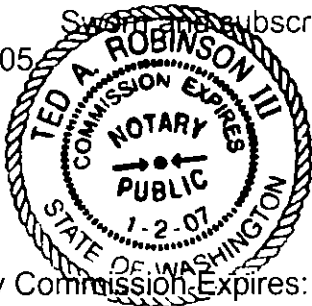
Allison Formal  
Allison Formal

June 16, 2005  
Date

Printed Name and Title of Person Signing on behalf of Entity

CITY/COUNTY OF REDMOND / KING / STATE OF WASH.  
COMMONWEALTH OF VIRGINIA

2005. Subscribed before me this 16 day of JUNE.



TAR Ref  
Notary Public  
RESIDING AT NEEDSVILLE WA.

My Commission Expires: 1-02-07

SO ORDERED:

Entered this 14th day of July, 2005.

Real Estate Board

BY: Louise Fontaine Ware  
Louise Fontaine Ware, Secretary

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VIRGINIA DEPARTMENT OF PROFESSIONAL  
AND OCCUPATIONAL REGULATION  
COMPLIANCE & INVESTIGATION DIVISION  
3600 WEST BROAD STREET  
RICHMOND, VA 23230-4917

REVISED REPORT OF FINDINGS

BOARD: Real Estate Board  
DATE: December 1, 2004  
REVISED DATE: March 7, 2005  
FILE NUMBER: 2005-00494  
RESPONDENT: Allison H. Formal  
LICENSE NUMBER: 0225072016  
EXPIRATION: May 31, 2005

SUBMITTED BY: Carolyn D. Wright  
APPROVED BY:

COMMENTS:

None.

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Allison H. Formal ("Formal") was at all times material to this matter a licensed real estate salesman in Virginia (No. 0225072016).

Based on the analysis and/or investigation of this matter, there is probable cause to believe the respondent has committed the following violations of the Code of Virginia and/or Board's regulations:

BACKGROUND:

On July 23, 2004, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received a written complaint from William P. Lunger ("Lunger") regarding Formal. (Exh. C-1)

The License Transcript dated October 14, 2004, revealed the following:

On May 2, 2003, Formal was issued an original salesperson license and affiliated with Re/Max Distinctive Real Estate, Inc, (Re/Max Distinctive) license # 0201005108; the Principal Broker is William P. Lunger, Sr. (Exh. I-1)

At all times herein, Formal relied upon Mr. Davidson Lunger and the administrative staff of ReMax Allegiance in the completion and filing of all licensing forms with the Board subsequent to April 23, 2004.

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1. Board Regulation (Effective April 1, 2003)

18 VAC 135-20-260. Unworthiness and incompetence.

Actions constituting unworthy and incompetent conduct include:

11. Engaging in improper, fraudulent, or dishonest conduct.

FACTS:

On or about April 24, 2004, D. Eftekhari and Deborah Colon entered into a Sales Contract with Dmytro Andriyenko and Julia Keda, as buyers, for the purchase and sale of property located at 11758 Great Owl Circle, Reston, Virginia, through Re/Max Allegiance, as selling company representing the buyer, by Formal as agent. (Exh. C-2) On page five (5) of this contract next to "Selling Company's Name and Address" is Re/Max Allegiance, at 3315 Lee Highway, Arlington, Virginia, the address for 1<sup>st</sup> Choice, Inc., t/a Re/Max Allegiance. Davidson B. Lunger is the Principal Broker. (Exh. C-2)

On the date of this contract, Formal was licensed with Re/Max Distinctive Real Estate, Inc, the firm of William P. Lunger who is Principal Broker. (Exh I-1)

Formal's actions of entering into a real estate contract showing her affiliation with Re/Max Allegiance while licensed with Re/Max Distinctive Real Estate, Inc. may be engaging in improper, fraudulent, or dishonest conduct.

2. Board Regulation (Effective April 1, 2003)

18 VAC 135-20-260. Unworthiness and incompetence.

Actions constituting unworthy and incompetent conduct include:

11. Engaging in improper, fraudulent, or dishonest conduct.

FACTS:

On May 7, 2004, the Board placed Formal's license on inactive status. (Exh. I-1)

On May 8, 2004, Adolfo Esquibel, as seller, entered into a Listing Agreement-

Exclusive Right To Sell (agreement) with Re/Max Allegiance, by Formal, as Sales Associate, for property located at 21756 Tottenham Hale Court, Sterling, Virginia. (Exh. R-2) On page four (4) of this agreement the broker is shown as Re/Max Allegiance, at 3315 Lee Highway, Arlington, Virginia, the address for 1<sup>st</sup> Choice, Inc., t/a Re/Max Allegiance. (Exh. R-2) On June 10, 2004, Davidson B. Lunger, Principal Broker of 1<sup>st</sup> Choice, Inc., t/a Re/Max Allegiance, signed this agreement. (Exh. R-2)

On June 16, 2004, Formal's license was activated and affiliated with 1<sup>st</sup> Choice, t/a Re/Max Allegiance; the Principal Broker is Davidson B. Lunger. (Exh. I-1)

Formal's actions of listing property for sale showing her affiliation with 1<sup>st</sup> Choice, Inc., t/a Re/Max Allegiance, when in fact she was not affiliated with 1<sup>st</sup> Choice, Inc., t/a Re/Max Allegiance, may be engaging in improper, fraudulent, or dishonest conduct.

### 3. Board Regulation (Effective April 1, 2003)

18 VAC 135-20-260. Unworthiness and incompetence.

Actions constituting unworthy and incompetent conduct include:

11. Engaging in improper, fraudulent, or dishonest conduct.

#### FACTS:

On May 17, 2004, Formal's license was activated and affiliated with Max Alex Realty, Inc, t/a Re/Max Allegiance; the Principal Broker is Charles Bengel.

On May 25, 2004, Pearl Yen, as seller, entered into a Listing Agreement-Exclusive Right to Sell (Agreement) for the sale of property located at 3118 Covington Street, Fairfax, Virginia, with Re/Max Allegiance, by Formal, as Sales Associate. The address shown on this Agreement is 3315 Lee Highway, Arlington, Virginia, the address for 1<sup>st</sup> Choice, Inc., t/a Re/Max Allegiance. Davidson B. Lunger is the Principal Broker (Exh. R-4)

On June 11, 2004, Formal signed a Real Estate Board (the Board) Transfer Application (Application) for the transfer of her license to 1<sup>st</sup> Choice, Inc., t/a Re/Max Allegiance. (Exh. I-4) This Transfer Application was signed by Davidson B. Lunger, Principal Broker of 1<sup>st</sup> Choice, t/a Re/Max Allegiance. (Exh. I-4) The subject Application was received by the Board on June 15, 2004.

On or about June 12, 2004 and June 13, 2004, Formal listed the subject property for sale in the Washington Post newspaper, advertisement # 99229, Account # 896010, Re/Max 1<sup>st</sup> Choice, Inc., for the subject property. The subject listing

shows Re/Max Allegiance as Formal's firm. (Exh. R-5)

On June 16, 2004, the Board issued the subject license to Formal, affiliated with 1st Choice, t/a Re/Max Allegiance. (Exh. I-1)

Formal's actions of listing property for sale showing her affiliation with 1<sup>st</sup> Choice, t/a Re/Max Allegiance, when in fact she was not licensed with 1<sup>st</sup> Choice, t/a Re/Max Allegiance, may be engaging in improper, fraudulent, or dishonest conduct.

4. Board Regulation (Effective April 1, 2003)

18 VAC 135-20-260. Unworthiness and incompetence.

Actions constituting unworthy and incompetent conduct include:

10. Failing to act as a real estate broker or salesperson in such a manner as to safeguard the interests of the public

FACTS:

On or about May 3, 2004, William P. Lunger, Principal Broker of Re/Max Distinctive Real Estate, Inc, made a written request to Formal for all "pending sales, active listings, referrals, and all other business entered into while licensed with this organization". (Exh. C-6)

On or about May 3, 2004, May 4, 2004, and May 21, 2004, Formal responded to the subject request from William P. Lunger by providing William P. Lunger with a list of pending contracts. (Exh. C-7) This list excluded the property located at 11758 Great Owl Circle, Reston, Virginia. Formal represented the buyer in this transaction. (Exh. C-2)

Formal's failure, upon request, to provide her Principal Broker with a complete list of her pending contracts, may constitute a failure to act as a salesperson in such a manner as to safeguard the interests of the public.

5. Board Regulation (Effective April 1, 2003)

18 VAC 135-20-280. Improper brokerage commission.

Actions resulting in an improper brokerage commission or fee include:

2. Accepting a commission or other valuable consideration, as a real estate salesperson or associate broker, from any person except the licensee's principal broker at the time of the transaction, for (i) the performance of any of the acts specified in Chapter 21 (§ 54.1-2100

board or related to any real estate transaction, without the consent of that broker; or (ii) the use of any information about the property, the transaction or the parties to the transaction, gained as a result of the performance of acts specified in Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia without the written consent of the principal broker. No licensee shall act as an employee of a company providing real estate settlement services as defined in the Real Estate Settlement Procedures Act, (12 U.S.C. 2601, et seq.) or pursuant to a license issued by the Commonwealth of Virginia, to provide real estate settlement services to clients or customers of the firm without written consent of the broker.

FACTS:

On or about April 24, 2004, D. Eftekhari and Deborah Colon entered into a Sales Contract with Dmytro Andriyenko and Julia Keda, as buyers, for the purchase and sale of property located at 11758 Great Owl Circle, Reston, Virginia, through Re/Max Allegiance, as selling company representing the buyer, by Formal as agent. (Exh. C-2) On page five (5) of this contract next to "Selling Company's Name and Address" is Re/Max Allegiance, at 3315 Lee Highway, Arlington, Virginia, the address for 1<sup>st</sup> Choice, Inc., t/a Re/Max Allegiance. Davidson B. Lunger is the Principal Broker. (Exh. C-2)

On the date of this contract, Formal was licensed with Re/Max Distinctive, the firm of William P. Lunger who is Principal Broker. (Exh I-1)

On or about April 24, 2004, Dmytro Andriyenko tendered a check in the amount of \$10,000.00 to Re/Max Allegiance, as an earnest money deposit on the subject contract. (Exh. C-3)

On or about April 27, 2004, the subject earnest money deposit check was deposited into the escrow account of 1<sup>st</sup> Choice, Inc, t/a Re/Max Allegiance. (Exh. C-3)

On April 30, 2004, Formal signed a Real Estate Board (the Board) Transfer Application to transfer her license from Re/Max Distinctive to Max-Alex Realty, Inc., t/a Re/Max Allegiance. The Transfer Application was signed by Charles Bengel, Principal Broker of Max-Alex Realty, Inc., t/a Re/Max Allegiance. On May 14, 2004, the Board received the Transfer Application. (Exh. I-3)

The Settlement Statement for the subject property dated May 12, 2004, reveals a commission in the amount of \$13,650.00 paid to Re/Max Allegiance. (Exh. C-4)

On or about May 14, 2004, Re/Max Allegiance, Inc. paid Formal a commission in the amount of \$13,650.00 for the subject property. (Exh. W2-2)



On May 17, 2004, Formal's license was activated and affiliated with Max Alex Realty, Inc., t/a Re/Max Allegiance whose Principal Broker is Charles Bengel. (Exh. I-1)

Formal's actions of accepting a commission from Max Alex Realty, Inc., t/a Re/Max Allegiance, while licensed with Re/Max Distinctive, may be accepting a commission from any person except the licensee's principal broker at the time of the transaction.

6. Board Regulation (Effective April 1, 2003)

18 VAC 135-20-300. Misrepresentation/omission.

Actions constituting misrepresentation or omission, or both, include:

9. Knowingly making any material misrepresentation or making a material misrepresentation reasonably relied upon by a third party to that party's detriment

FACTS:

On April 30, 2004, Formal signed a Real Estate Board (the Board) Transfer Application to transfer her license from Re/Max Distinctive to Max-Alex Realty, Inc., t/a Re/Max Allegiance. This Transfer Application was signed by Charles Bengel, Principal Broker of Max-Alex Realty, Inc., t/a Re/Max Allegiance. On May 14, 2004, the Board received the Transfer Application. (Exh. I-3)

On or about May 5, 2004, Metropolitan Regional Information Systems, Inc. (MRIS) received a Customer Transfer Form for Formal signed by Davidson B. Lunger, Principal Broker of 1<sup>st</sup> Choice, Inc., t/a Re/Max Allegiance showing Formal was a salesperson associated with his firm. (Exh. C-8)

On May 17, 2004, Formal's license was activated and affiliated with Max Alex Realty, Inc., t/a Re/Max Allegiance whose Principal Broker is Charles Bengel. (Exh. I-1)

On or about May 17, 2004, Formal entered into the MRIS a property located at 21756 Tottenham Hale Court, Sterling, Virginia. Formal identified her broker as Re/Max 27 and broker office number as (703) 522-1940. Re/Max 27 is the firm of 1<sup>st</sup> Choice, Inc., t/a Re/Max Allegiance, whose Principal Broker is Davidson B. Lunger. (Exh. C-9)

On or about June 11, 2004, Formal entered into the MRIS a property located at 3118 Covington Street, Fairfax, Virginia. Formal identified her broker as Re/Max 27 and broker office number as (703) 522-1940. Re/Max 27 is the firm of 1<sup>st</sup> Choice, t/a Re/Max Allegiance, whose Principal Broker is Davidson B. Lunger. (Exh. C-9)

Formal's actions of registering with MRIS and listing properties in a firm name under which she was not licensed, may be in violation of the Board's regulations